

IN THE UNITED STATES BANKRUPTCY COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

IN RE:)	
)	
PARTHENON METAL WORKS, LLC,)	Case No: 3:19-bk-00389
)	Chapter 7
)	Judge Harrison
Debtor.)	
)	

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: August 13, 2020
IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: August 25, 2020, at
9:00 a.m., by AT&T conference line number 1-888-363-4749, Access Code 4511038#

NOTICE OF MOTION OF TRUSTEE TO EMPLOY MEDIATOR

John C. McLemore, Chapter 7 Trustee, has asked the court for the following relief:
permission of the Court to employ a mediator.

YOUR RIGHTS MAY BE AFFECTED. If you do not want the court to grant the attached motion by entering the attached order, or if you want the court to consider your views on the motion, then on or before August 13, 2020, you or your attorney must:

1. File with the court your response or objection explaining your position. **PLEASE NOTE: THE BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE REQUIRES ELECTRONIC FILING. ANY RESPONSE OR OBJECTION YOU WISH TO FILE MUST BE SUBMITTED ELECTRONICALLY. TO FILE ELECTRONICALLY, YOU OR YOUR ATTORNEY MUST GO TO THE COURT WEBSITE AND FOLLOW THE INSTRUCTIONS AT: <<https://ecf.tnmb.uscourts.gov>>.**

If you need assistance with Electronic Filing you may call the Bankruptcy Court at (615) 736-5584.

2. **Your response must state that the deadline for filing responses is August 13, 2020, the date of the scheduled hearing is August 25, 2020, and the motion to which you are responding is the Motion of Trustee to Employ Mediator.**

3. You must serve your response or objection **by electronic service through the Electronic Filing system** described above. You must also mail a copy of your response or objection to:

John C. McLemore, Trustee
2000 Richard Jones Rd., Ste. 250
Nashville, TN 37215

United States Trustee
701 Broadway, Customs House Suite 318
Nashville, TN 37203

Phillip G. Young, Jr.
Thompson Burton PLLC
6100 Tower Circle
Suite 200
Franklin, TN 37067

If a response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. ***THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.*** You may check whether a timely response has been filed by calling the Clerk's office at (615) 736-5584 or viewing the case on the Court's website at <<https://ecf.tnmb.uscourts.gov>>.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter the attached order granting that relief.

Dated: July 23, 2020

By: /s/ John C. McLemore
John C. McLemore, Trustee
2000 Richard Jones Road, Suite 250
Nashville, TN 37215
Telephone: 615-383-9495
jmclemore@gmylaw.com

Chapter 7 Trustee

IN THE UNITED STATES BANKRUPTCY COURT FOR
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MOTION OF TRUSTEE TO EMPLOY MEDIATOR

John C. McLemore, Chapter 7 Trustee herein (the “Trustee”), respectfully represents the following to the Court:

1. On December 10, 2018 (the “Petition Date”), an involuntary petition was filed against Parthenon Metal Works, LLC (the “Debtor”) in the Bankruptcy Court for the Northern District of Ohio. That court granted an order for relief on January 4, 2019, and then transferred the case to this Court on January 11, 2019.

2. John C. McLemore has been appointed to serve as trustee in this matter.

3. Currently pending before this Court are a number of adversary proceedings related to this matter, each of which seeks to avoid transfers pursuant to 11 U.S.C. § 547. While the Trustee has diligently worked to resolve these adversary proceedings, at least five (5) remain unresolved.¹

4. The Trustee, in consultation with counsel for each of the defendants in the remaining adversary proceedings, recommended mediation to the Court. The Court approved of

¹ Several other adversary proceedings are subject to pending motions to approve settlement or motions for default. Were any of those motions to be denied, the number of unresolved adversary proceedings would increase.

the Trustee's proposal at a pretrial conference conducted on July 22, 2020, and instructed the Trustee to file a motion to employ a mediator.

5. After consultation with counsel for the defendants, the Trustee recommended that the estate retain Paul G. Jennings (the "Mediator"), a member of the law firm of Bass, Berry & Sims, as mediator. The estate has agreed to bear the Mediator's fees and expenses associated with the mediation.

6. The Trustee selected the Mediator because of his extensive experience with bankruptcy litigation and in conducting mediations. More specifically, the Mediator has almost thirty years of experience pursuing and defending preference actions.

7. The Mediator satisfies all of the criteria for employment under the Bankruptcy Code and Bankruptcy Rules and is qualified to conduct these services for the estate.

8. To the best of the Trustee's knowledge and belief, the Mediator does not represent any interest adverse to the Trustee or to the estate. A Statement of Disinterestedness is attached hereto as *Exhibit A*. As reflected in the Statement of Disinterestedness, other members of the Mediator's law firm have represented the individual owners of one of the defendants in matters wholly unrelated to this matter. Neither the Mediator nor the Trustee believe that this creates a conflict of interest or renders him not disinterested. However, to the extent it is necessary, both the Trustee and the individuals that own the defendant have agreed to waive any such conflict.

9. The work to be performed by the Mediator will directly benefit the estate by attempting to efficiently resolve all outstanding adversary proceedings related to this bankruptcy case. The source of the compensation will be unencumbered and nonexempt proceeds and will be paid only upon approval by the Court. No payments have heretofore been made to the

Mediator for services rendered or to be rendered in any capacity whatsoever, and no agreement exists between the Mediator and any other entity for the sharing of compensation.

10. The Mediator has indicated his willingness to serve as mediator in this case. While the Mediator's standard billing rate is \$605.00 per hour, he has agreed to render mediation services in this case at a reduced rate of \$450.00 per hour. In addition to these fees, the Trustee proposes to compensate the Mediator for all out-of-pocket expenses, such as long distance telephone calls, photocopying charges, word processing copies, messenger service, travel expenses, filing fees, costs of subpoenas and depositions, publication fees, and other costs that he may be required to advance on the estate's behalf in connection with this representation.

11. The Trustee will make application to the Court for approval of all fees and expenses due to the Mediator.

WHEREFORE, the Trustee requests the approval of this application for employment of Paul G. Jennings to serve as mediator in this matter; and for such other relief as may be appropriate.

Dated: July 23, 2020.

Respectfully submitted,

/s/ John C. McLemore

John C. McLemore, Trustee
2000 Richard Jones Road, Suite 250
Nashville, TN 37215
Telephone: 615-383-9495
jmclemore@gmylaw.com

Chapter 7 Trustee

Certificate of Service

The undersigned hereby certifies that a copy of the preceding Application was electronically filed and served via the Court's ECF system this 23rd day of July, 2020:

/s/ John C. McLemore
John C. McLemore, Trustee
2000 Richard Jones Road, Suite 250
Nashville, TN 37215
Telephone: 615-383-9495
jmclemore@gmylaw.com

Chapter 7 Trustee

EXHIBIT A

I VERIFY UNDER PENALTY OF PERJURY THAT THE STATEMENTS CONTAINED IN THE FOREGOING MOTION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, AND THAT NEITHER I NOR ANY MEMBER OF THE LAW FIRM OF BASS, BERRY & SIMS, IN WHICH I SERVE AS A MEMBER, CURRENTLY HAVE ANY CONNECTION WITH THE DEBTOR, THE TRUSTEE, THE ADVERSARY PROCEEDING DEFENDANTS, OR ANY OTHER PARTY IN INTEREST, THEIR RESPECTIVE ATTORNEYS AND ACCOUNTANTS EXCEPT AS DISCLOSED BELOW:

Bass, Berry & Sims currently represents the individual owners of Titan Transfer, Inc., a defendant in a pending adversary proceeding, regarding issues wholly unrelated to the Debtor or the pending adversary proceeding. I have never been involved in this representation, it does not present a conflict of interest and, even if such a conflict did exist, both the Trustee and the owners of Titan Transfer, Inc. have agreed to waive such conflict.

/s/ Paul G. Jennings
Paul G. Jennings

PROPOSED

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IN RE:

PARTHENON METAL WORKS, LLC,

Debtor.

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Case No: 3:19-bk-00389
Chapter 7
Judge Harrison

ORDER APPROVING EMPLOYMENT OF MEDIATOR

Upon consideration of the notice and motion of John C. McLemore, Trustee, for authority to employ Paul G. Jennings as mediator in connection with the above-styled matter, and it appearing that neither Paul G. Jennings nor any member of the law firm of Bass, Berry & Sims represent any interest adverse to this estate, and no objections having been filed;

And it appearing to the Court that employment of a mediator in this matter was necessary;

It is hereby **ORDERED** that John C. McLemore, Trustee, is authorized to employ Paul G. Jennings ("Mediator"), and that the Mediator shall be compensated pursuant to Local Rule 2016-1.

The Trustee will make application to the Court for approval of all fees.

This Order was signed and entered electronically as indicated at the top of the first page.

APPROVED FOR ENTRY:

/s/ John C. McLemore

John C. McLemore, Trustee

2000 Richard Jones Road, Suite 250

Nashville, TN 37215

Telephone: 615-383-9495

jmclemore@gmylaw.com

Chapter 7 Trustee